

(c) *If Defeased.* It is a condition precedent to a Mode change of any Variable Rate Security that has been defeased that there be delivered to the Tender Agent, and the Tender Agent shall hold on the Mode Change Date:

(1) a Rating Confirmation with respect to such Modal Securities and

(2) if required by any Rating Agency providing a Rating Confirmation, a verification report or other evidence of the adequacy of the escrow in respect of such defeasance.

(f) *Reliance by Tender Agent.* The Tender Agent is entitled to rely on a certificate of the Finance Director that the items delivered to it pursuant to this Section conform to the above requirements.

Section 4.10. Election of Mode Change; How Effected; Irrevocability.

(a) *Who May Elect.* The Finance Director may elect at any time and from time to time to change the Mode of any Variable Rate Security.

(b) *How Election Effected.* In order to evidence the election of the Finance Director, and for his/her election to be effective, the Finance Director shall deliver to the Tender Agent, with copies to each of the other Notice Parties, not later than, for the proposed Mode Change Date, the minimum number of days required by Section 6.02 for notices given in connection with mandatory tenders plus 15 days (or such fewer days in advance of such minimum number as may be acceptable to the other Notice Parties):

(1) a Mode Change Notice signed by the Finance Director and

(2) the items required by Section 4.09 to be held by the Tender Agent on the Mode Change Date except that:

(i) any otherwise required Conforming Financial Facility is not required if the current Financial Facility will be a Conforming Financial Facility after giving effect to the Mode change;

(ii) if any Conforming Financial Facility is required, the Finance Director may satisfy the requirement with a commitment of a bank or other financial institution to provide such Conforming Financial Facility not later than the Mode Change Date, and, in such situation, the Rating Confirmation may be indicative or contingent; and

(iii) moneys in respect of the Purchase Price are not required.

(c) *Irrevocable.* The election shall be effective upon receipt by the Tender Agent of the foregoing and shall be irrevocable.

Section 4.11. Selection of Variable Rate Securities.

(a) Whenever a Mode change is to be effective for less than all outstanding Variable Rate Securities, the Finance Director may select or direct the Tender Agent to select the Variable

Rate Securities to be affected by whatever means or manner that the Finance Director determines to be in the best interests of the City.

(b) If the Provider of a Financial Facility has requested the Finance Director to select Provider Securities held by such Provider for a Mode change in order to facilitate the remarketing of such Provider Securities, then the Finance Director shall direct that such Provider Securities shall be selected before any Modal Securities are selected for such Mode change.

(c) The provisions of this Section are subject to the selection procedures, if any, of the Securities Depository.

Section 4.12. Contents of Mode Change Notice.

The notice of the Finance Director to elect a Mode change shall set forth:

- (1) the new Mode;
- (2) the Mode Change Date, which shall comply with Section 4.01(b);
- (3) if the new Mode is to apply to less than all of the outstanding Variable Rate Securities, the means by which such Variable Rate Securities are to be selected in accordance with Section 4.11;
- (4) such matters that may be included pursuant to Section 2.02 as the Finance Director may elect to include;
- (5) if the new Mode is a Term Rate Mode, the number of Stated Interest Payment Dates in the related Term Period subject to Section 4.06;
- (6) if the new Mode is an Auction Rate Mode, such matters as are required to be included by the Auction Rate Mode Supplement;
- (7) if any of the Modal Securities resulting from the Mode change are to be Excluded Securities (or either Excluded Credit Enhancement Securities or Excluded Liquidity Facility Securities), a statement that the Finance Director will terminate the relevant Financial Facility or Facilities with respect to such Modal Securities on behalf of the City;
- (8) unless the Modal Securities resulting from the Mode change will be Excluded Securities, the amount, each separately stated, of principal (and premium, if any) and interest required to be covered pursuant to Section 9.02, determined as if the Mode described in such notice were in effect and taking into account any changes contained in such notice pursuant to Section 2.02, and calculated in sufficient detail to permit the Tender Agent to verify the arithmetical accuracy thereof;
- (9) a statement that:
 - (i) each Financial Facility required by Section 9.01 and then held by the Tender Agent is a Conforming Financial Facility with respect to the new Mode or

(ii) accompanying the notice is the commitment of a bank or other financial institution to issue a required Financial Facility that will:

(A) be a Conforming Financial Facility and

(B) be effective as of the Mode Change Date specified in the notice; and

(10) such matters deemed necessary or appropriate by the Finance Director.

Section 4.13. Notice to Variable Rate Modal Securityholders and Liquidity Facility Providers.

(a) Whenever the Tender Agent receives a Mode Change Notice, the Tender Agent shall give the notice of mandatory tender required by Section 6.02 to the Modal Holders of the Variable Rate Securities to be affected by the Mode change, and if any Provider Securities are Outstanding, to the Liquidity Facility Provider.

(b) Such notice shall be given in advance of the Mode Change Date specified in such Mode Change Notice by at least the minimum number of days required by Section 6.02; provided that, a Liquidity Facility Provider shall always be given at least five Modal Business Days' notice.

**ARTICLE V
REDEMPTION OF MODAL SECURITIES**

Section 5.01. Optional Redemption – Short-Term and Term Rate Securities.

(a) *Short-Term Securities.*

(1) Daily and Weekly Rate Securities. Daily Rate Securities and Weekly Rate Securities are subject to redemption upon notice given as required in the Sale Order in whole or in part on any Modal Business Day at the option of the City at a Redemption Price of 100% of the principal amount thereof to be redeemed plus interest accrued to the Redemption Date.

(2) Flexible Rate Securities. Flexible Rate Securities are subject to redemption upon notice given as required in the Sale Order in whole or in part on any Interest Payment Date at the option of the City at a Redemption Price of 100% of the principal amount thereof to be redeemed plus interest accrued to the Redemption Date.

(b) ***Term Rate Securities.*** Term Rate Securities are subject to redemption upon notice given as required in the Sale Order in whole or in part on any Interest Payment Date at the option of the City at a Redemption Price of 100% of the principal amount thereof to be redeemed plus interest accrued to the Redemption Date; provided that the first such Interest Payment Date on which any Term Rate Securities are subject to redemption shall not be less than five calendar months after the calendar month in which occurred the Mode Change Date on which the Mode of such Term Rate Securities was changed to the Term Rate Mode.

(c) **Opinion Requirement.** Because the Series 2003(B) Securities are related to a Qualified Hedge under the Bond Ordinance, the City shall not exercise its option to redeem any Series 2003(B) Securities subject to optional redemption unless the City has received an opinion of Bond Counsel to the effect that such action will not adversely affect the exemption of the interest on the Series 2003 Securities from federal and state income taxation (subject to customary exceptions).

(d) **Preference to Provider Securities.** If any Provider Securities of a Series are outstanding, the City shall not exercise its option to redeem Variable Rate Securities of the same Series unless the City offers to redeem a corresponding principal amount of such Provider Securities at a price of the principal amount thereof plus interest accrued at the Provider Rate to the date of redemption and if such offer is accepted, so redeems such Provider Securities on or before the redemption date of such Variable Rate Securities.

Section 5.02. Optional Redemption – Modal Fixed Rate Securities.

Unless changed pursuant to Section 2.02, Modal Fixed Rate Securities are subject to redemption upon notice given as required in the Sale Order in whole on any date or in part on any Interest Payment Date at the option of the City at the Redemption Prices set forth below (expressed as a percentage of the principal amount thereof to be redeemed) for the applicable remaining term and anniversary date of the Mode Change Date, plus interest accrued to the Redemption Date.

Remaining Term	Interest Payment Date Anniversary after Mode Change Date	Redemption Price
More than 15 years	10 th	101%
	11 th	100 ½
	12 and thereafter	100

Remaining Term	Anniversary of Interest Payment Date Following Mode Change Date	Redemption Price
More than 10 years but not more than 15 years	7 th	101%
	8 th	100 ½
	9 th and thereafter	100

Remaining Term	Anniversary of Interest Payment Date Following Mode Change Date	Redemption Price
More than 5 years but not more than 10 years	3 rd	101%
	4 th	100 ½
	5 th and thereafter	100

Remaining Term	Anniversary of Interest Payment Date Following Mode Change Date	Redemption Price
5 years or fewer years	2 nd	100%

Section 5.03. Limitation on Optional Redemption.

The City shall not exercise its option to redeem any Modal Securities unless (i) at the time it instructs the Registrar to give notice of such redemption it has sufficient funds available to pay the Redemption Price of such Modal Securities plus interest accrued to the Redemption Date or (ii) it instructs the Registrar to make such redemption conditioned on the availability of such funds on the Redemption Date.

Section 5.04. Redemption of Provider Securities.

Provider Securities shall also be subject to redemption in the amounts, at the times and with such notice as shall be set forth in the applicable Financial Facility or Financial Facility Agreement.

ARTICLE VI RIGHT OF OPTIONAL TENDER AND MANDATORY TENDER EVENTS

Section 6.01. Tender at Option of Modal Holder.

(a) Subject to Section 6.04, Daily Rate Securities and Weekly Rate Securities are subject to tender at the option of the Modal Holder on any Modal Business Day at the Purchase Price of 100% of the principal amount thereof, plus interest accrued to the Purchase Date, upon notice given by the Modal Holder as provided in this Section.

(1) In order to exercise its option to tender Daily Rate Securities, the Modal Holder shall give an irrevocable tender notice to the Remarketing Agent and the Tender Agent by Electronic Means no later than 11:00 a.m. on the Purchase Date specified in such notice, which may be the same Modal Business Day on which the notice is given.

(2) In order to exercise its option to tender Weekly Rate Securities, the Modal Holder shall give an irrevocable tender notice to the Remarketing Agent and the Tender Agent by Electronic Means no later than 4:00 p.m. not less than seven days before the Purchase Date specified in such notice.

(b) Tender notices given pursuant to this Section shall specify the CUSIP number of the Security (or portion thereof) to be tendered and otherwise identify such Security to the satisfaction of the Tender Agent, and shall also specify the principal amount of such Security being tendered (which shall be an Authorized Denomination) and shall state in effect that:

(1) such Security (or portion thereof) shall be purchased on the Purchase Date specified therein at 100% of the principal amount thereof, plus interest accrued to Purchase Date,

(2) the Securities specified in the tender notice are all the Securities of such Tranche held by Modal Holder or if less than all, that after giving effect to such tender, the remaining Securities of such Tranche held by such Modal Holder are in one or more Authorized Denominations for the Mode of such Securities and

(3) such notice is irrevocable.

Section 6.02. Mandatory Tender Events.

(a) Each Variable Rate Security affected by any of the following enumerated events shall be subject to mandatory tender on the Purchase Date set opposite the respective event upon such as notice as is required to be given, all as set forth in the following table, at the Purchase Price of 100% of the principal amount thereof, plus interest accrued to the Purchase Date.

Event	Purchase Date	Tender Notice Required
End of Flexible Rate Period	Day on which the Period ends	No
End of a Term Rate Period	Day on which the Period ends	Yes, at least 15 days' notice
Mode Change	Mode Change Date	Yes, at least 15 days' notice
Occurrence of Last Put Termination Event	As provided in Section 9.07	As provided in Section 9.07
Occurrence of Expiry Date if required by Section 6.03	The last Modal Business Day to occur not less than 5 days before the Expiry Date	Yes, at least 15 days' notice
New Provider of a Financial Facility	As provided in subsection (b) below	Yes, at least 15 days' notice

(b) The Purchase Date in connection with a new Provider of a Financial Facility shall be a Modal Business Day at least five days before the sooner to occur of (i) the effective date of such Financial Facility and (ii) the Expiry Date of the Predecessor Financial Facility.

Section 6.03. Mandatory Tender on Expiry Date.

(a) Except as otherwise provided in this Section, if the Tender Agent has not accepted a Conforming Financial Facility in accordance with Section 9.04 to replace an expiring Financial Facility on or before the 20th day before the Expiry Date of such Financial Facility, then the Tender Agent shall give notice to the Modal Holders of all Modal Securities subject to such Financial Facility that their Modal Securities are subject to mandatory tender on the Purchase Date specified in such notice. Such notice shall be given and such Purchase Date shall be specified in such notice as provided in Section 6.02.

(b) Subsection (a), above is not applicable with respect to an expiring Financial Facility if the City has given the Tender Agent the commitment of the Provider of such Financial Facility as provided in the below paragraphs.

(1) The commitment is to provide a Conforming Financial Facility on or before the Expiry Date of such Financial Facility.

(2) The commitment expressly states that it is unconditional and irrevocable.

(3) Such commitment is given to the Tender Agent at least 20 days before the Expiry Date of such Financial Facility.

(c) Subsection (a), above is not applicable with respect to an expiring Financial Facility if notice is given in accordance with Section 4.08 on or before the last day that notice would be otherwise required to be given by Section 6.02 with respect to such expiring Financial Facility, and such notice states that all the Modal Securities subject to such Financial Facility are intended to become Excluded Securities.

(d) The City shall not exercise any right to voluntarily terminate a Financial Facility except in accordance with its terms and except upon giving the Tender Agent not less than 30 days' prior written notice of its intention to do so. No voluntary termination may be made if the effect thereof would be to violate Section 9.01 of this Agreement.

Section 6.04. Suspension of Optional Tender Rights.

(a) For the purposes of this Section, a "*Suspension Period*" commences with respect to a Liquidity Facility and the Securities that have the benefit of such Liquidity Facility (the "*Affected Securities*") upon (i) the occurrence of an Immediate Termination Event under such Liquidity Facility or (ii) the occurrence of a suspension of such Liquidity Facility by reason of an act, omission or condition affecting the Provider of the correlative Credit Enhancement (either (i) or (ii), a "*Credit Enhancement Event*").

(b) During a Suspension Period, (i) the right of a Modal Securityholder to tender Affected Securities pursuant to Section 6.01 shall be suspended and (ii) the interest rate or rates for the Affected Securities shall be determined as if the Termination Event were a Rate Suspension Event except that 2% per annum shall be added to the applicable rate for Affected Securities in any Short-Term Mode.

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ARTICLE VII
TENDER AND PURCHASE

Section 7.01. Notice of Mandatory Tender.

(a) Whenever notice is required by Section 6.02 to effect a mandatory tender on a Purchase Date, the Tender Agent shall give such notice at least the required number of days in advance of such Purchase Date.

(b) The notice of mandatory tender shall:

(1) in substance specify:

(i) the event giving rise to the mandatory tender;

(ii) the Purchase Date; and

(iii) the Modal Securities subject to mandatory tender identified in such manner as is deemed reasonable by the Tender Agent under the circumstances; and

(2) state in effect that:

(i) the identified Modal Securities are subject to mandatory tender on such Purchase Date and in order to receive payment of the Purchase Price on the Purchase Date, such Modal Holder shall transfer its Modal Securities to the Tender Agent with all necessary endorsements on or before 12:00 noon on the Purchase Date;

(ii) such Modal Securities are deemed tendered on the Purchase Date irrespective of any actual transfer to the Tender Agent and shall cease to bear interest on and after the Purchase Date; and

(iii) transfers of such Modal Securities may be made after the Purchase Date to the Tender Agent but no interest shall be paid for any period on and after the Purchase Date.

(3) such notice may contain such additional information as the Tender Agent believes to be necessary or appropriate.

(c) The failure to properly give notice to any Modal Holder of Securities subject to mandatory tender and entitled hereunder to notice shall not affect the validity of any other mandatory tender as to which notice, if required to be given, was properly given.

Section 7.02. Interest No Longer Accrue.

The Purchase Price of each Tender Security shall become due and payable on its respective Purchase Date, and if on such Purchase Date the Tender Agent holds amounts sufficient to pay such Purchase Price, then interest on such Tender Security shall cease to accrue;

otherwise, such Tender Security shall continue to bear interest as if it had not been subject to purchase on such Purchase Date.

Section 7.03. Remarketing of Provider Securities.

(a) "Predecessor Tender Security" means, as to any particular Provider Security, the Tender Security purchased by the Liquidity Facility Provider as a result of the failed remarketing of such Tender Security.

(b) Provider Securities shall be remarketed by the Remarketing Agent only as Modal Securities ("*Provider-Owned Variable Rate Securities*") in the same Mode as the Predecessor Tender Securities unless a different Mode has become or will become effective in accordance with Article IV.

(c) The Finance Director shall take such steps as are necessary in sufficient time before the Purchase Date of each Provider-Owned Variable Rate Security so that such Provider-Owned Variable Rate Security will have the benefit of the Liquidity Facility of the Provider owning the correlative Provider Security upon the delivery to the purchasers thereof which shall be evidenced by delivery to the Tender Agent of written confirmation by the Provider that the required principal and interest coverage under the Liquidity Facility has been increased or reinstated.

(d) No Liquidity Provider is under any obligation to transfer its Provider Securities to the Remarketing Agent in connection with a remarketing of the correlative Provider-Owned Variable Rate Securities except on a "delivery against payment" basis.

Section 7.04. Remarketing by Remarketing Agent; Priority to Provider-Owned Variable Rate Securities.

(a) The Remarketing Agent shall offer for sale and use its best efforts to sell on each Purchase Date all Tender Securities and all Provider-Owned Variable Rate Securities that will have the benefit of the Liquidity Facility of the Provider owning the correlative Provider Security upon the delivery to the purchasers thereof.

(b) The Remarketing Agent shall remarket all Provider-Owned Variable Rate Securities before remarketing any Tender Securities.

(c) The Remarketing Agent shall not sell any Tender Securities or Provider-Owned Variable Rate Securities at a discount from the principal amount thereof.

Section 7.05. Draw Information to be Provided by Remarketing Agent; Transfer of Amounts.

On each Purchase Date for Tender Securities of any particular Series, the Remarketing Agent shall inform the Tender Agent, on or before the time specified by the Tender Agent as the time necessary to permit a timely draw under the related Liquidity Facility, of the amount received by the Remarketing Agent as the purchase price of remarketed Tender Securities as of such time.

Section 7.06. Draws on Liquidity Facility.

(a) On the Modal Business Day immediately preceding a Purchase Date (except for a tender of Daily Rate Securities pursuant to Section 6.01), the Remarketing Agent shall give written notice to the Liquidity Facility Provider and the Tender Agent of the principal amount of Tender Securities for which, as of 4:00 p.m., it did not have commitments for purchase on the Purchase Date. On each Purchase Date for Tender Securities, the Tender Agent shall draw on the Liquidity Facility, in accordance with its terms and to the extent of the availability of amounts thereunder in sufficient time to have amounts available to the credit of the Remarketing Fund on the day of the draw. The terms of the Liquidity Facility shall control the time at which the draw is to be made.

(b) The amount of such draw, to the extent of the availability under the Liquidity Facility, shall equal the Purchase Price of all such Tender Securities less the amount received by the Tender Agent as the Purchase Price of such Tender Securities that have been remarketed before the drawing. All Tender Securities for which the Tender Agent has not received the purchase price in respect of the remarketing by the time the Tender Agent reasonably believes it must draw to comply with subsection (a), above, shall be deemed to have not been remarketed for the purposes of drawing under the related Liquidity Facility.

(c) The Tender Agent shall not draw to pay the Purchase Price of any Provider-Owned Variable Rate Securities or any Modal Securities owned by or held for the benefit of the City.

Section 7.07. City Not Obligated to Pay Purchase Price.

The Purchase Price is payable solely from amounts made available under the Liquidity Facility and that none of the City, the Transfer Agent, the Tender Agent, the Remarketing Agent or the Bond Insurer is obligated to provide funds for the payment of any Purchase Price.

Section 7.08. Payment of Purchase Price.

Upon the transfer of a Tender Security to the Tender Agent with all necessary endorsements, the Tender Agent shall pay the Purchase Price to the Modal Holder of such Tender Security:

(1) no later than the close of business on the Modal Business Day of transfer (but not before the Purchase Date) if such Tender Security is transferred at or before 3:00 p.m. and

(2) no later than the close of business on the Modal Business Day following the Modal Business Day of transfer (but not before the Purchase Date) if such Tender Security is transferred after 3:00 p.m.

Section 7.09. Tender of Less than all of Security.

If less than all of a Modal Holder's Variable Rate Security is subject to mandatory tender or is tendered to the Tender Agent as an optional tender permitted hereunder, then upon the transfer of such Variable Rate Security in whole to the Tender Agent, the City shall execute (if not already executed) and the Tender Agent shall authenticate and deliver to such Modal Holder,

on the day of transfer, a Variable Rate Security or Modal Securities, registered in the name of such Modal Holder, of the same tenor and in such Authorized Denominations as specified by such Modal Holder as shall equal, in the aggregate, the balance of such Modal Holder's Variable Rate Security.

Section 7.10. Notification and Delivery of Remarketed Tender Securities.

(a) Not later than 11:30 a.m. on the Purchase Date, the Remarketing Agent shall notify the Tender Agent and the Transfer Agent of the principal amount of Tender Securities and Provider-Owned Variable Rate Securities successfully remarketed and such information as is appropriate to comply with current securities industry practices applicable to the transfer of securities of the same character, and owned in the manner, as the Modal Securities to be transferred to the purchasers of such Modal Securities.

(b) The City shall execute (to the extent not already executed) and the Tender Agent shall authenticate an aggregate principal amount of Modal Securities necessary to comply with the instructions of the Remarketing Agent even though not all Tender Securities or correlative Provider Securities have been tendered on the Purchase Date.

(1) Such Modal Securities shall be in such Authorized Denominations and registered by the Tender Agent as Transfer Agent in such names as shall be instructed by the Remarketing Agent (but not in excess of the aggregate principal amount of Tender Securities and correlative Provider Securities) and shall be authenticated as the appropriate Modal Securities and made available for delivery to the Remarketing Agent no later than 1:30 p.m. on the Purchase Date.

(2) To the extent that any Modal Securities required to be executed and authenticated by this Section are to be held in the Book-Entry Only System maintained by the Securities Depository, then the Tender Agent shall comply with the procedures of the Securities Depository applicable to tender bonds and the transfer of interests in Securities, and no delivery of such Modal Securities in certificated form is required.

Section 7.11. Actions on Purchase Date.

(a) ***Definitions.***

"City's Portion" means, as to a Provider-Owned Variable Rate Security remarketed by the Remarketing Agent on a Purchase Date, an amount equal to the difference between (i) the Provider's Remarketing Portion and (ii) the principal amount of the correlative Provider Security plus interest accrued thereon at the Provider Rate to such Purchase Date plus any fees and expenses required to be paid by the Financial Facility Agreement.

"Provider's Remarketing Portion" means, as to a Provider-Owned Variable Rate Security remarketed by the Remarketing Agent on a Purchase Date, an amount equal to the principal amount of the correlative Provider Security plus an amount equal to the interest accrued to such Purchase Date on such Provider Security as if such bore interest at the rate borne by the Tender Securities then remarketed.

(b) *Actions.* The following actions shall be taken on the Purchase Date for a Series of Tender Securities.

(1) If any Provider-Owned Variable Rate Securities of the same Series were to be remarketed:

(i) The City shall pay the City's Portion to the Tender Agent for payment to the related Liquidity Facility Provider.

(ii) From amounts received from purchasers of remarketed Securities, Remarketing Agent shall pay such Provider's Remarketing Portion to the Tender Agent for payment to such Liquidity Facility Provider.

(iii) The Tender Agent shall pay the amounts received by it as such Provider's Remarketing Portion and the City's Portion to the Liquidity Facility Provider.

(2) From amounts received from purchasers of remarketed Securities the Remarketing Agent shall pay the amounts owed to the tendering Modal Holders of such Tender Securities and then shall pay the balance to the Tender Agent.

(3) The Tender Agent next shall deposit to the credit of the Remarketing Fund established for such Series of correlative Variable Rate Securities amounts received from the Remarketing Agent.

(4) The Tender Agent shall draw on the Liquidity Facility pursuant to Section 7.06 and deposit the proceeds of such draw to the credit of such Remarketing Fund.

(5) The Tender Agent shall notify the Finance Director of any insufficiency in the amount drawn under the Liquidity Facility.

(6) All amounts not otherwise described in this Section received by the Tender Agent in respect of the remarketing of the Tender Securities shall be deposited to the credit of the Remarketing Fund.

(7) The Tender Agent shall apply amounts credited to the Remarketing Fund as provided in Section 8.06.

(8) The Tender Agent shall hold any Provider Securities in trust for the benefit of the Liquidity Facility Provider or, at the direction of the Liquidity Facility Provider, deliver the Provider Securities to the Liquidity Facility Provider or to its assigns as provided in this Agreement or in the Liquidity Facility.

(9) The Tender Agent shall notify the Finance Director and the Transfer Agent as provided in Section 8.08, and such notification shall include the aggregate principal amount of Provider Securities delivered to the Provider of such Liquidity Facility.